

**ZONING BOARD OF APPEALS**

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ZBA 2009-65

Petition of Charles & Penelope Ireland
126 Great Plain Avenue

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, September 10, 2009 at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of CHARLES & PENELOPE IRELAND requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing nonconforming garage with less than required right side yard setbacks and construction of a 24.3 foot by 38.2 foot garage with storage area attached and above that will meet setback requirements, on an existing nonconforming lot with less than required frontage, in a 20,000 square foot Single Residence District, at 126 GREAT PLAIN AVENUE, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On August 25, 2009 the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Penelope Ireland (the "Petitioner").

The Board said that the Planning Board objected to granting the petition.

The Board said that the surveyor had not drawn the plot plan according to the building plans. The Board said that there will be a condition of the Special Permit that a corrected survey be submitted.

The Board said that it has traditionally limited garages with space above to having no plumbing. The Board said that the storage space above the garage will be approximately six feet high. The Board said that the dormers appear to be there for decoration only, which Ms. Ireland confirmed.

There was no one present at the Public Hearing who wished to speak to the petition.

Statement of Facts

The subject property is located at 126 Great Plain Avenue, in a 20,000 square foot Single Residence District, with a minimum right side yard setback of 15.1 feet and less than required frontage.

The Petitioner is requesting a Special Permit/Finding that demolition of an existing nonconforming garage with less than required right side yard setbacks and construction of a 24.3 foot by 38.2 foot garage with

storage area attached and above that will meet setback requirements, on an existing nonconforming lot with less than required frontage, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 8/4/09, stamped by Bruce Bradford, Professional Land Surveyor, Proposed Floor Plans and Elevation Drawings, dated 8/3/09, and photographs were submitted.

On August 31, 2009, the Planning Board reviewed the petition and objected to granting the request.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject structure does not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

It is the finding of this Authority that demolition of an existing nonconforming garage with less than required right side yard setbacks and construction of a 24.3 foot by 38.2 foot garage with storage area attached and above that will meet setback requirements, on an existing nonconforming lot with less than required frontage, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as it shall neither increase an existing nonconformity nor shall it create a new nonconformity.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for demolition of an existing nonconforming garage with less than required right side yard setbacks and construction of a 24.3 foot by 38.2 foot garage with storage area attached and above that will meet setback requirements, subject to the following conditions:

1. A revised plot plan shall be submitted showing the proposed garage in agreement with the construction plans that were submitted.
2. There shall be no plumbing in the garage.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time stamped on this decision.

APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.

Richard L. Seegel, Chairman

J. Randolph Becker

David G. Sheffield

cc: Planning Board
Inspector of Buildings
lrm